IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATEJURISDICITON

WRIT PETITION NO.6067 OF 2006

M/s.M.R. Corporation .. Petitioner.

Versus

Union of India & Others .. Respondents.

Mr.S.N. Kantawala i/by Uday P. Warunjikar for the petitioner.

Mr.P.S. Jetly with Mr.Y.R. Mishra and Mr.M.D. Sharma for the respondents.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 5TH OCTOBER, 2006.

P.C. :

1. Heard Mr.Kantawala in support of this petition. Mr.Jetly appears for the respondents.

2. The petition has been filed in view of the decision of the Settlement Commission a year before in September, 2005. The petitioner applied for refund as per that order on 2nd/3rd May, 2006 but since that did not meet any success, he was required to file this petition.

3. After the petition was filed, the Deputy Commissioner of Customs has written a letter to the

petitioners on 20th September, 2006 in response to an earlier reminder by the petitioners dated 20th June, 2006 that the refund application will have to be accompanied by the documents evidencing that there was no unjust enrichment. This is to show that the duty incidence has not been passed on to other persons. The officer has asked the petitioner to produce the following documents.

1. Balance sheet duly audited by the Chartered Accountant.
2. Cost-sheet.
3. Sales Invoices if the goods have been sold to any other person.
4. Any other supporting documents.

4. Mr.Jetly, on instructions of the officer present in Court, makes a statement that after the petitioner tenders these documents, an appropriate order will be passed within two weeks therefrom.

5. Mr.Kantawala states that if there is any difficulty in tendering the documents sought for, the petitioner may furnish some other evidence for the same purpose namely that the duty incidence is not passed on to other persons.

6. The petition stands disposed of in terms of this order.

7. We had passed an order on 21st September, 2006 that the officer concerned must explain as to why cost should not be directed to be paid by him. Mr.Kantawala is not pressing for any cost. Therefore, there will not be any order as to costs.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)